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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 BRETT GAILEY,

9 Plaintiff,

10 v.

11 CITY OF EVERETT,

12 Defendant.

C19-859 TSZ

ORDER

13 Plaintiff Brett Gailey's unopposed motion, docket no. 8, for an order of the Court
14 for purposes of 5 U.S.C. § 552a(b)(11) and 32 C.F.R. § 516.46(b)(1), is GRANTED in
15 part and DENIED in part as follows. The Court hereby ORDERS:

16 (1) The United States Department of Labor, Veterans' Employment & Training
17 Service ("DOL/VETS"), is DIRECTED to release to plaintiff's counsel, Thomas G.
18 Jarrard, 1020 North Washington Street, Spokane, Washington 99201, in the form and at a
19 time and location upon which DOL/VETS and Mr. Jarrard mutually agree, the following
20 materials:

21 all reports, complaints, and unprivileged communications relating to the
22 investigation performed by DOL/VETS concerning the City of Everett's
23 alleged violation of plaintiff Brett Gailey's rights under the Uniformed

1 Services Employment and Reemployment Rights Act of 1994

2 (“USERRA”), 38 U.S.C. §§ 4301 - 4335.

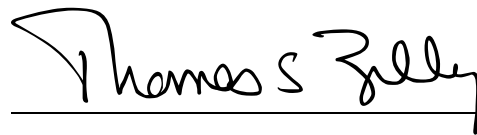
3 If DOL/VETS withholds any document on the basis of privilege, it shall provide to
4 Mr. Jarrard a privilege log identifying each such item by date, sender, recipient, and
5 explanation for why a privilege is being asserted.

6 (2) Plaintiff also seeks DOL/VETS records for the past five years pertaining to
7 other individuals whose USERRA or Vietnam Era Veterans Readjustment Assistant Act
8 rights were allegedly by the City of Everett, without giving notice and an opportunity to
9 be heard by such individuals, and as to such request, plaintiff’s motion is DENIED.

10 (3) The Clerk is directed to send a copy of this Order to all counsel of record.
11 Plaintiff’s counsel is DIRECTED to serve a copy of this Order on DOL/VETS and to file
12 proof of such service within seven (7) days of the date of this Order.¹ Plaintiff’s counsel
13 is further DIRECTED to promptly provide to defendant’s counsel copies of all materials
14 released by DOL/VETS and any privilege log produced pursuant to this Order.

15 IT IS SO ORDERED.

16 Dated this 9th day of August, 2019.

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19 Thomas S. Zilly
20 United States District Judge

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22 ¹ The Court DECLINES to direct the Clerk of Court to issue the subpoena duces tecum proposed by
23 Mr. Jarrard. In addition to being overly broad, the subpoena duces tecum does not qualify as an “order of
a court” for purposes of 5 U.S.C. § 552a(b)(11). See 32 C.F.R. § 516.46.(b)(1).